(32)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr. A. No. 82 of 2001

[Single Bench: Hon'ble Mr. Justice Dhirendra Mishra]

APPELLANT : IN JAIL		Vinay Krishn Malik aged 40 years, S/o Vaidhyanath Malik, resident of Jaipur Thana Bangaon, District 24 Pargana North (West Bengal)
	Vs.	
RESPONDENT :		State of Chhattisgarh, through the District Magistrate Bemetara, District- Durg.

Present:

Mr. Sudhir Verma, learned counsel for the appellant.

Mr. Arun Sao, learned GA for the State.

ORAL JUDGMENT

(22nd November 2007)

Dhirendra Mishra, J

This criminal appeal is directed against the judgment of conviction and order of sentence dated 21.11.2000 passed in Sessions Trial No.34/97 whereby the learned Additional Sessions Judge, Bemetara, has convicted the appellant under Sections 450, 363, 366, 376(1) and sentenced him to undergo R.I. for 5 years with fine of Rs.100/-, R.I. for 3 years with fine of Rs.100/-, R.I. for 3 years with fine of Rs.100/- and R.I. for 5 years with fine of Rs.100 and RI for 10 years with fine of Rs.300/- respectively and in default of payment of fine to

(33)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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undergo additional R.I. for two months. All the sentences have been directed to run concurrently.

2. Learned counsel for the appellant does not press this appeal on the point of conviction and submits that the appellant was in jail during trial from 28.10.1996 to 9.4.1997, 29.3.2000 to 21.11.2000 and thereafter, he is in jail since the date of judgment i.e. 21.11.2000 till date and as such, has already completed more than 8 years one month of jail sentence, therefore, he may be sentenced to the period already undergone by him.

3. Taking into consideration the facts and circumstances of the case and further considering that the appellant is in jail for the last more than 8 years one month, prayer of the appellant appears to be justified. Accordingly, the appeal preferred by the appellant is partly allowed. While maintaining conviction of the appellant under Sections 450, 363, 366, 376(1) of the IPC, the jail sentence of 10 years' RI under Section 376 (1) of IPC is modified and instead thereof, he is sentenced to the period already undergone by him. However, fine sentence imposed upon the appellant under aforesaid sections by the trial Court shall remain as it is. If the appellant has already deposited the fine amount, he is directed to be set at liberty forthwith, if not required in any other case.

Sd/-
Dhirendra Mishra
Judge